

2.000: MASSACHUSETTS REFUGEE RESETTLEMENT PROGRAM

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2.050: The Office for Refugees and Immigrants: Purpose and Authority

The Massachusetts Office for Refugees and Immigrants (ORI) was established by St. 1992, c. 133, § 171; M.G.L. c. 6, §§ 205 through 208. Its purpose is to promote the full participation of refugees and immigrants as self-sufficient individuals and families in the economic, social and civic life of Massachusetts. The Director of ORI is the state refugee coordinator designated pursuant to the federal Refugee Act of 1980 as the state official with primary responsibility for the coordination of public and private resources in refugee resettlement.

2.100: Massachusetts Refugee Resettlement Program: Purpose and Authority

(1) The Refugee Act of 1980, Chapter 2 of Title IV of the Immigration and Nationality Act (8 USC 1521 *et seq.*) established the federal Refugee Resettlement Program. 8 USC 1521 *et seq.* authorizes funds for the administration and implementation of social and educational services, employment training and placement, and cash and medical assistance for refugees. 8 USC 1521 *et seq.* is intended to promote the resettlement and economic self-sufficiency of refugees within the shortest time possible.

(2) An amendment to 8 USC 1521 *et seq.* authorized the Secretary of the United States Department of Health and Human Services to approve alternative programs "...under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers." Section 412(e)(7) of the Immigration and Nationality Act, 8 U.S.C. 1522(e)(7). The Massachusetts Refugee Resettlement Program (MRRP) is such an alternative program.

(3) The primary purpose of MRRP is to assist refugees to achieve durable self-sufficiency. It seeks to accomplish this purpose by emphasizing coordination of services, early employment and post-employment services.

2.110: Administration and Overview of the Massachusetts Refugee Resettlement Program

(1) Subject to available funds, ORI administers MRRP through contracts with local governments, community-based organizations and/or other public or private organizations.

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(2) The major components of MRRP are:

- (a) Refugee Case Management Services offer refugees access to Employment Services, Refugee Cash Assistance, Refugee Medical Assistance, and other services necessary for successful resettlement. Case managers assess needs and refer refugees to service providers, coordinate and oversee the development of a Family Employment Plan, monitor progress on the Plan, determine initial and continuing eligibility for Refugee Cash Assistance, and assist refugees in applying for Refugee Medical Assistance. The agency that provides case management services is most frequently the local affiliate of the national voluntary agency (VOLAG) that was responsible for the refugee's initial resettlement in this country or an agency with a formal working relationship with the VOLAG.
- (b) Refugee Employment Services offer pre-placement services to assist at least one adult family member to secure early employment and post-placement services designed to help the family achieve durable self-sufficiency. English language training is available as an employment service to the extent that it is necessary for the initial employment and, after initial placement, to the extent that it is necessary for the family to achieve durable self-sufficiency.
- (c) Refugee Cash Assistance offers temporary financial support to refugees while they participate in employment services prescribed in a Family Employment Plan, and to refugees who are exempt from participation.
- (d) Refugee Medical Assistance provides transitional medical coverage for those refugees ineligible for Medicaid (referred to as MassHealth in Massachusetts).

2.120: Basic Requirements

(1) Refugee Status and Eligibility. MRRP eligibility requires appropriate documentation that a person is a refugee, asylee, Amerasian, or Cuban or Haitian Entrant as defined and specified in 121 CMR 2.420. For purposes of MRRP and 121 CMR 2.000, "refugee" is used to describe anyone who meets the requirements of 121 CMR 2.420.

(2) Residence. Only Massachusetts residents are eligible for assistance under MRRP. There is no minimum length of stay requirement for establishing residency.

(3) Time-limited Eligibility.

- (a) Refugee Cash and Medical Assistance. Eligibility for Refugee Cash and Medical Assistance is limited by federal funds available and time limits set by the federal Office of Refugee Resettlement. As of October 1, 2002, time eligibility for Refugee Cash and Medical Assistance expires at the end of the eighth month a refugee is in the United States. The effective date for Refugee Cash and Medical Assistance for refugees, asylees and secondary migrants is specified in 121 CMR 2.430.
- (b) Employment Services. A refugee may be eligible for employment services beyond the eligibility time limit for Refugee Cash Assistance and Refugee Medical Assistance as long as such services are part of his or her Family Employment Plan. Currently, a refugee is eligible for employment services for the first 36 months he or she is in the country or until the family achieves durable self-sufficiency (450% of the federal poverty level), whichever comes first.
- (c) Refugee Case Management Services. A refugee may be eligible for case management services beyond the eligibility time limit for Refugee Cash Assistance and Refugee Medical Assistance, for up to the first 36 months he or she is in the country or until the family achieves durable economic self-sufficiency (450% of the federal poverty level), whichever comes first.

2.130: Definitions

As used in the administration of the MRRP:

Adequate Notice means a written notice of an intended action to reduce, suspend or terminate assistance. It must contain:

- (a) a statement of the intended action;
- (b) the reason(s) for the intended action;
- (c) a citation to the regulation(s) supporting the action;

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- (d) an explanation of the right and procedures to request a fair hearing;
- (e) the circumstances under which assistance is continued if a hearing is requested; and
- (f) a statement that if the action is upheld, assistance paid pending appeal is subject to recoupment.

Adult Caretaker means:

- (a) a parent; or
- (b) a close non-parental adult relative who is willing and able to care for the child; or
- (c) an adult with a clear and court verifiable claim to custody of the child who is living with and caring for the dependent child.

Appeal means a written request for a fair hearing on an action proposed or taken by a Case Management Agency or on the Agency's failure to act.

Appropriate Offer of Employment means an offer of a job that pays at least the minimum wage, that does not jeopardize the health or safety of the refugee or otherwise give rise to circumstances that would constitute good cause as described in 121 CMR 2.730, and that is consistent with the early employment and self-sufficiency strategy described in the Family Employment Plan.

Assistance Unit means those refugees whose needs are considered in determining eligibility for and the amount of a Refugee Cash Assistance grant and who are eligible to receive Refugee Cash Assistance and Refugee Medical Assistance. All persons who are required to be in the assistance unit must be included in the filing unit. See 121 CMR 2.510 for a description of who must be in the assistance unit.

Case Management Agency means an agency under contract with ORI to perform certain functions under MRRP that serve to remove all barriers to employment, self sufficiency and successful resettlement. These include, but are not limited to:

- (a) determining initial and ongoing eligibility for Refugee Cash Assistance, and other MRRP services;
- (b) assisting refugees in applying for Refugee Medical Assistance;
- (c) referring refugees to appropriate services and programs;
- (d) working with refugees and employment service agencies to develop a Family Employment Plan designed to employ at least one adult in the shortest possible time and lead to durable self-sufficiency for the family; and
- (e) tracking the progress of the Family Employment Plan.

Case Record means the permanent written collection of the information necessary for determining eligibility, developing and implementing a Family Employment Plan, and providing case management and related MRRP services.

Case Review means a review of eligibility and progress of a refugee client toward early employment and self-sufficiency benchmarks.

Competent Medical Authority means a physician, licensed independent certified social worker (LICSW) or psychologist licensed by the Commonwealth of Massachusetts or, for the purpose of diagnosing pregnancy and pregnancy-related incapacity, a nurse-midwife who meets the educational and certification requirements mandated by M.G.L. c. 112, § 80B and 80C and 244 CMR *et seq.*

Date of Entry means the date the refugee entered the United States. For Cuban and Haitian Entrants, this is the date entrance status is granted. For asylees, this is the date asylee status is granted. The assistance unit may contain individuals who have different dates of entry. Disputes regarding dates of entry are resolved by documentation from the Immigration and Naturalization Service rather than by fair hearing.

Days means calendar days unless working days are specified. Time periods expire on the last day of the period unless the day falls on a Saturday, Sunday, legal holiday or other day on which the office of ORI or the Case Management Agency is closed, in which event the last day of the

time period shall be the next following business day.

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Dependent Child means a child who lives with a parent or other adult caretaker and is younger than 18 years old; or younger than 19 years old if a full-time student in grade 12 or below, or in a vocational or technical training program of the equivalent level that is designed to lead to gainful employment, and the child is expected to graduate or complete the course of study or training before his or her 19th birthday.

Durable Self-Sufficiency means that the assistance unit's gross income exceeds 450% of the federal poverty level.

Employable means not being exempt from participation in Employment Services under 121 CMR 2.725.

Employment Services Agency means an agency under contract with ORI to provide to refugees referred by Case Management Agencies job placement, employment counseling, job development, vocational skills training, English language training where needed, and follow-up services designed to assist the primary participant(s) to obtain early employment and the family to achieve durable self-sufficiency.

Fair Hearing means a proceeding conducted by the ORI Director or his or her designee who shall be an impartial hearing officer appointed to review an action proposed, taken, or not taken by a Case Management Agency, which has been appealed. If the hearing is conducted by an appointed hearing officer, the decision of the hearing officer shall not be subject to review by the ORI Director. The decision of the hearing officer shall be a final agency decision within the meaning of and subject to judicial review under M.G.L. c. 30A.

Family Employment Plan means a detailed action plan having definite short-term and long-term employment goals designed to enable an assistance unit to achieve durable self-sufficiency.

Filing Unit means those people whose income must be considered in determining the eligibility of and the grant amount for the assistance unit. This includes the members of the assistance unit and anyone else who have a legal obligation to financially support a member of the assistance unit.

Grant means the total amount of cash assistance that an assistance unit is eligible to receive per month.

Grantee means the person who receives the grant for the assistance unit.

Income means any money, goods, or services, received from any source, such as salaries, wages, tips, incentives, annuities, free shelter or utilities, child support or alimony.

Match Grant means a public/private partnership agreement between a VOLAG and the Office of Refugee Resettlement under which refugee resettlement costs are shared between government and a community. VOLAGs who resettle refugees pursuant to Match Grants are responsible for cash and in-kind support for refugees for an additional 90 days beyond the normal 30 days in a Reception and Placement Agreement.

Medicaid (referred to as MassHealth in Massachusetts) means a health care program for low and moderate-income individuals and families, administered by the Massachusetts Division of Medical Assistance.

Nonexempt Refugee means a refugee in an assistance unit who does not meet the requirements for exemption from participation set forth at 121 CMR 2.725.

Participant means a member of the assistance unit who participates in an activity designed to help the assistance unit achieve durable self-sufficiency as described in the Family Employment Plan.

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Primary Participant means an adult member of the assistance unit designated in the Family Employment Plan as appropriate for early employment. The primary participant is the person(s) closest to being job ready and is not necessarily the person who will ultimately be the primary wage earner. The Case Management Agency will identify two primary participants per assistance unit, whenever possible.

Reception and Placement (R&P) means the initial resettlement process and period during which a VOLAG or other sponsor under an agreement with the United States Department of State is responsible for assisting the refugee.

Refugee or Asylee means a foreign-born resident who is not a United States citizen and who cannot return to his or her country of origin or last residence because of persecution or the well-founded fear of persecution because of race, religion, nationality, membership in a particular social group, or political opinion, as determined by the United States Department of State or the Immigration and Naturalization Service (INS). A refugee receives this status prior to entering the United States. An asylee receives this status after entering the United States.

For purposes of the MRRP, "refugee" encompasses asylees as well as Cuban or Haitian Entrants, who are persons granted parole status or special status under the United States immigration laws for Cubans and Haitians, and others specified in 121 CMR 2.420 as meeting the refugee status requirements necessary for eligibility for the MRRP.

Refugee Cash Assistance means a program of temporary financial support for members of an assistance unit. Case Management Agencies determine eligibility and authorize grant amount. ORI issues payments.

Refugee Medical Assistance means a program of temporary medical assistance for an assistance unit that is ineligible for MassHealth. Case Management Agencies assist refugee clients to apply to the Massachusetts Division of Medical Assistance for the program. The Division of Medical Assistance determines eligibility, issues eligibility cards, and pays medical providers for services consistent with those of the MassHealth Standard program.

Resident means a person who lives in Massachusetts at the time of application for and receipt of MRRP benefits and services.

Secondary Migrant means a refugee who initially settles elsewhere in the United States and subsequently moves to Massachusetts.

Secondary Participant means an adult member of the assistance unit designated in the Family Employment Plan as employable, but not immediately available for early employment; or a full time high school student who is immediately employable and is limited to working 20 hours a week or less.

Self-Sufficiency means that the family's gross income exceeds 150% of the federal poverty level.

Standard of Assistance means the maximum amount of Refugee Cash Assistance that an assistance unit may receive monthly, and is the standard used to determine eligibility and grant amount.

Supplemental Security Income (SSI) means a financial assistance program for individuals with low income who are age 65 or older or who meet disability standards, administered by the Social Security Administration.

Transitional Aid to Families with Dependent Children (TAFDC) means a financial assistance and employment services program for low income families with dependent children, administered by the Massachusetts Department of Transitional Assistance.

Timely Notice means adequate notice, mailed, or given, to a refugee at least ten calendar days prior to the effective date of an intended action.

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Verification means the process of ensuring the validity of a statement or circumstance for purposes of determining or redetermining eligibility.

VOLAG means a national voluntary agency assigned responsibility by the United States Department of State for initial refugee resettlement processing. The VOLAG assigns continuing responsibility for the refugee's resettlement in the United States to a local affiliated VOLAG or sponsor.

2.200: Rights of Refugees

The policies of the Massachusetts Refugee Resettlement Program shall be administered in accordance with the rights guaranteed by Massachusetts and federal law, the MRRP regulations at 121 CMR 1.000 through 4.000 *et seq.*, federal regulations, the policies of ORI and general principles of privacy and personal dignity.

A refugee has a right to be informed of his or her rights and responsibilities under the MRRP. This includes the right of access to 121 CMR 1.000 through 4.000 *et seq.*, which shall be available during regular business hours at Case Management Agencies and ORI.

2.210: Right to Non-discrimination and Equal Treatment

All activities conducted by ORI and its contractors must be carried out in accordance with Title VI of the Civil Rights Act of 1964 (42 USC 2000d *et seq.*), the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), the Age Discrimination Act of 1975, as amended (42 USC 6101 *et seq.*), and the Massachusetts Constitution. ORI does not discriminate on the basis of race, color, sex, national origin, disability, sexual orientation or age in admission or access to, or treatment or employment in, its programs or activities, nor shall any ORI contractor.

A Civil Rights Officer has been designated to coordinate ORI's compliance with the United States Department of Health and Human Services regulations (45 CFR Parts 80, 84 and 91), including ensuring services are delivered in a language that the refugee can understand. For further information about resolution of discrimination complaints, contact should be made with the Civil Rights Officer, Office for Refugees and Immigrants, 18 Tremont Street, Suite 600, Boston, MA 02108.

2.220: Right to Confidentiality

The confidentiality of information in the case record shall be protected in accordance with the provisions of M.G.L. c. 66A.

Refugees shall be advised that, if their Case Management Agency is not the VOLAG that was responsible for their initial resettlement, the VOLAG that was responsible for their resettlement will be notified when they apply for assistance.

Information in case records may be disclosed for certain purposes which do not violate the right to confidentiality and are necessary for program administration.

2.230: Right to Information

A refugee or his or her designated representative has the right to inspect his or her own case record and to challenge information contained therein. The Case Management Agency shall correct information determined to be inaccurate.

2.240: Right to a Fair Hearing

A refugee has the right to a fair hearing as set forth in 121 CMR 2.665 to dispute an adverse action, proposed action, or failure to act by the Case Management Agency.

2.250: Right to Representation

A refugee has a right to be assisted, accompanied or represented by any person in contacts with the Case Management Agency or ORI.

2.260: Right to Linguistically Appropriate Services

A refugee whose limited English proficiency prevents him or her from understanding his or her rights and responsibilities and from benefiting from the MRRP has the right to services from a case manager who can communicate in the refugee's primary language. If such bilingual staff is not available, an interpreter shall be provided at no cost to the refugee unless the refugee prefers his or her own interpreter. Program notices and forms shall be in languages commonly used by refugees. Any notices not in a refugee's language shall contain an advisory informing the refugee that if he or she needs assistance translating program notices or letters, the Case Management Agency shall provide a bilingual staff member or interpreter to assist.

2.300: Responsibilities of Refugees

The Case Management Agency shall explain to the refugee all rights and responsibilities under the MRRP. The refugee shall sign an agreement acknowledging that he or she has been advised of his or her rights and responsibilities and agreeing to abide by the terms of the program.

2.310: Responsibility for Providing Verification

(1) The Case Management Agency is responsible for explaining the verification process to the refugee, identifying the specific verifications that must be submitted and alternative verifications that may establish eligibility factors, and assisting in obtaining required verification(s) when the agency is aware that the refugee will have difficulty in obtaining the verification(s). The Case Management Agency shall give the refugee a list of required verifications.

(2) Any information, not subject to change, provided to a VOLAG through the Reception and Placement (R&P) process shall be considered verified unless there is information challenging its accuracy. This shall not prohibit a refugee from correcting inaccurate information in the case record.

(3) If the Case Management Agency is not the agency that was responsible for the R&P, the Case Management Agency shall, if necessary, contact the responsible VOLAG for information required to verify eligibility.

(4) The refugee shall submit verifications, not already provided through the R&P process, which demonstrate that the refugee has satisfied eligibility factors for participation in the program.

(5) Self-declarations may not be used to verify refugee status, date of entry, or participation in Employment Services.

(6) If the refugee does not submit the required documentation, and if the Case Management Agency cannot verify that the refugee has met all MRRP eligibility factors after it contacts appropriate third parties, the agency must deny, terminate or reduce assistance for the affected assistance unit member(s).

(7) If the agency cannot determine financial eligibility for any member of the filing unit, the entire assistance unit is ineligible for financial assistance.

In the case of initial financial eligibility determination, if the applicant submits required documentations within 30 days of denial of assistance, the agency may approve the refugee's application retroactive to the date of filing. In the case of a redetermination of financial eligibility, if the applicant submits required documentation within 30 days of termination, the agency may approve the refugee's financial eligibility retroactive to the date of termination. See 121 CMR 2.640.

2.320: Responsibility for Notification of Changes

The refugee is required to report to the Case Management Agency within five working days any changes in his or her circumstances that may affect the assistance unit's eligibility or grant amount. The only exception to this timeframe is for a refugee who is receiving Refugee Cash Assistance or Refugee Medical Assistance while an application for SSI is pending. In this case, the refugee must notify the Case Management Agency within one working day of receiving an SSI award letter from the Social Security Administration.

2.330: Responsibility for Furnishing Information

The refugee shall provide information in response to requests from the Case Management Agency or ORI for purposes of quality control or state or federal audits.

2.340: Responsibility for Cooperating in the Eligibility Determination Process

(1) Case managers shall review case records to monitor continued eligibility and progress toward durable self-sufficiency. A refugee shall cooperate in this process as a condition of continued eligibility. Case managers may schedule an appointment with a refugee as part of the review process when they are aware of changes or anticipated changes in family composition, income, employment, and other changes in circumstances that may affect eligibility, or an approaching or past critical point in the Family Employment Plan.

(2) A refugee is responsible for keeping scheduled appointments. A refugee who misses a scheduled meeting to determine eligibility may be ineligible unless he or she contacts the case manager by the day of the meeting to reschedule or, if unable to make such advance contact, the day after the circumstances ended that prevented the contact.

2.400: Non-financial Eligibility Requirements and Disqualifying Factors for MRRP

(1) Eligibility Factors. In addition to the responsibilities described in 121 CMR 2.310 through 2.340, there are substantive eligibility requirements that a refugee must meet in order to be eligible for MRRP. The non-financial requirements are described in 121 CMR 2.410 through 2.440, and the financial factors and method of computing the Refugee Cash Assistance grant are described in 121 CMR 2.500 through 2.560. The factors which disqualify a refugee for MRRP are described in 121 CMR 2.450 through 2.490.

(2) Refugee Cash Assistance, Refugee Medical Assistance and Employment Services. The eligibility requirements and disqualifying factors for Refugee Cash Assistance, Refugee Medical Assistance and Employment Services are the same unless specified otherwise.

(3) Verification. Acceptable verifications for different factors are specified. Whenever information that establishes an eligibility factor is available from the Reception and Placement process, that information shall be sufficient verification unless there is conflicting information or unless the refugee disputes the accuracy of the information.

2.410: Residence

The refugee shall be a resident of Massachusetts. There is no duration requirement to establish residence. Residence need only be verified when there is information available to the case manager that is contradictory, inconsistent or incomplete. Residence can then be verified by any record or document, such as a rent receipt, driver's license, utility record, pay stub or employment record or third-party affidavit. Written documentation may be required for a change of address.

2.420: Refugee Status

(1) The refugee shall have documentation issued by the Immigration and Naturalization Service (INS) that he or she is in one of the following statuses:

- (a) Admitted as a refugee under Section 207 of the INA;
- (b) Granted asylum under Section 208 of the INA;
- (c) Admitted as a Cuban or Haitian Entrant as defined under 45 CFR 401.2; or

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(d) Admitted as an Amerasian from Vietnam: Certain Amerasians from Vietnam who are admitted to the United States as immigrants under Section 584 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1988, as defined in section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law No. 100-461 as amended).

(2) If the refugee does not have the INS documentation, biographical data received from the Department of State can serve as temporary replacement verification.

(3) A child(ren) of a refugee(s) who is not a refugee(s) him or herself, including a U. S. citizen, may be eligible as long as he or she is living with a parent(s) who is a refugee(s) and not living with a parent who is not a refugee. A birth record, or third-party affidavit if a birth record is not available, shall verify relationship.

2.430: Time-limited Eligibility

(1) Federal directives, the Massachusetts Wilson/Fish Cooperative Agreement and federal funds limit time eligibility for MRRP to specified periods starting with the refugee's date of entry. For Cuban and Haitian Entrants, the date of entry is the date entrance status is granted. For asylees, the entry date is the date asylee status is granted. These time limits may be changed without public publication of changes in 121 CMR 2.000, but refugees whose eligibility for Refugee Cash Assistance or Refugee Medical Assistance is adversely affected will receive timely notice of the change.

(2) As of October 1, 2002, eligibility for Refugee Cash Assistance and Refugee Medical Assistance expires at the end of the refugee's eighth month in the United States

(3) Refugee Cash Assistance and Refugee Medical Assistance is effective on the refugee's date of entry into the United States except for:

- (a) Match Grant refugees, for whom Refugee Cash Assistance is effective on the 121st day from date of entry. (Refugee Medical Assistance is effective on the date of entry.)
- (b) Secondary migrant refugees, for whom Refugee Cash Assistance and Refugee Medical Assistance is effective on the date of application.
- (c) Asylees, for whom Refugee Cash Assistance and Refugee Medical Assistance is effective on the date of application.

(4) Subject to the availability of funds, time eligibility for employment services that are included in a Family Employment Plan expires at the end of the refugee's first 36 months in the United States or when his or her family achieves durable economic self-sufficiency, whichever comes first. Durable self-sufficiency means that the assistance unit's gross income exceeds 450% of the federal poverty level.

2.440: Participate in Employment Services and Not Have Refused an Offer of Employment nor Voluntarily Terminated Employment

(1) As soon as a Family Employment Plan is developed, the nonexempt refugee must comply with the terms of that plan consistent with the requirements of 121 CMR 2.720. The refugee must also cooperate in the development of the plan. The Employment Services Agency must provide verification of participation in employment services to the Case Management Agency.

(2) A primary participant cannot have refused an appropriate offer of employment nor have voluntarily terminated such employment unless exempted from participation in employment services, or, unless he or she had good cause for such action.

(3) 121 CMR 2.440 does not apply to Refugee Medical Assistance eligibility.

2.450: Supplemental Security Income (SSI) Eligibility

- (1) SSI Eligibility. A refugee who is determined eligible for SSI is not eligible for Refugee Cash Assistance or Refugee Medical Assistance.
- (2) Application for SSI. If a refugee appears to be eligible for SSI because of age or because he or she is unable to work due to a permanent mental or physical disability, the refugee must apply for SSI. Refugee Cash Assistance and/or Refugee Medical Assistance shall be provided to an otherwise eligible refugee while an application for SSI is pending, effective the date of the MRRP application, provided the refugee submits documentation from the Social Security Administration that he or she has applied for SSI.
- (3) Termination of Refugee Cash Assistance and Refugee Medical Assistance. A refugee who is receiving Refugee Cash Assistance or Refugee Medical Assistance while an application for SSI is pending shall notify the Case Management Agency within one working day of receiving an SSI award letter from the Social Security Administration. Any Refugee Cash Assistance payment made as the result of delay in notification of the case manager shall be an overpayment. Adequate notice given to the refugee, or mailed so as to arrive, on or before the date the next Refugee Cash Assistance check was due, shall be sufficient notice to terminate Refugee Cash Assistance when the reason for termination is SSI eligibility.
- (4) Employment Services. A refugee who is not eligible for Refugee Cash Assistance because of eligibility for SSI may still be eligible for employment services if the refugee's participation in the Family Employment Plan is part of the assistance unit's plan to achieve durable self-sufficiency.

2.460: Transitional Aid to Families with Dependent Children (TAFDC) Eligibility

- (1) Eligibility. A refugee who is eligible for TAFDC is not eligible for Refugee Cash Assistance or Refugee Medical Assistance.
- (2) Applicants. If a refugee appears to be eligible for TAFDC at the time of application for the MRRP, the Case Management Agency must refer the refugee to the Department of Transitional Assistance (DTA) to apply for TAFDC as soon as possible after date of entry. The Case Management Agency will not determine whether the refugee is eligible for Refugee Cash Assistance until he or she is denied TAFDC. The denial must be verified by a copy of the notice from the DTA or other written or oral communication from the Department to the case manager. Oral communication, including the reason for denial, shall be noted in the case record. If TAFDC is denied, Refugee Cash Assistance, subject to the time limitations of the program, shall be retroactive to the date of referral to DTA for asylees and secondary migrants, and to the date of entry for all other refugees.
- (3) Open Refugee Cash Assistance Cases. If a refugee who is receiving Refugee Cash Assistance appears to have become eligible for TAFDC because of changed circumstances, for example birth of a child or pregnancy (last four months of the pregnancy), he or she must apply for TAFDC immediately. Refugee Cash Assistance will not be authorized for more than 30 days from the date the case manager refers the refugee to the Department of Transitional Assistance for application, unless TAFDC is denied. The denial shall be verified by a copy of the notice from the Department of Transitional Assistance or other written or oral communication from the Department to the case manager. Oral communication, including the reason for denial, shall be noted in the case record.
- (4) Delay in TAFDC Application. The Case Management Agency shall inquire at the local Department of Transitional Assistance office if a refugee has not received a written notice of approval or denial for TAFDC within 30 days of the date of application. In the case of an open Refugee Cash Assistance case, if no decision has been made because of missing verification, Refugee Cash Assistance shall be continued until the TAFDC application is acted upon. The Case Management Agency shall assist in securing verifications.

2.460: continued

(5) Termination of Refugee Cash Assistance. When a refugee who is receiving Refugee Cash Assistance is approved for TAFDC, adequate notice given to the refugee, or mailed so as to arrive, on or before the date the next Refugee Cash Assistance check is due, shall be sufficient notice to terminate Refugee Cash Assistance.

(6) Employment Services. A refugee who is not eligible for Refugee Cash Assistance because of eligibility for TAFDC is eligible for employment services if the refugee's participation in the Family Employment Plan is part of the family's plan to achieve durable self-sufficiency.

2.470: Medicaid Eligibility (Referred to as MassHealth in Massachusetts)

A refugee who is eligible for MassHealth is not eligible for Refugee Medical Assistance. Case Management Agencies must complete MassHealth applications with refugees and forward them to the Division of Medical Assistance for a determination of eligibility.

2.480: Student in Institution of Higher Education

(1) A refugee who is receiving Refugee Cash Assistance cannot be a full-time student in an institution of higher education unless enrolled in a program that is an English-language or other training program, less than 12 months in duration, designed to prepare and place the participant in employment and consistent with the Family Employment Plan. Such a program cannot interfere with early employment goals of the primary participant. The case manager must verify that these conditions are being met

(2) 121 CMR 2.480 does not apply to Refugee Medical Assistance eligibility.

2.490: Unaccompanied Refugee Minor

A refugee who is enrolled in the Unaccompanied Refugee Minor Program is not eligible for MRRP.

2.500: Financial Eligibility Requirements and Grant Amount for Refugee Cash Assistance

(1) Eligibility Factors. In addition to the requirements described in 121 CMR 2.310 through 2.340, and 121 CMR 2.410 through 2.490, there are financial eligibility requirements that a refugee must meet in order to be eligible for Refugee Cash Assistance. The financial factors and method of computing the Refugee Cash Assistance grant are described in 121 CMR 2.500 through 2.565.

(2) Employment Services. Members of an assistance unit that is financially ineligible for Refugee Cash Assistance may be financially eligible for Employment Services subject to the limitations described in 121 CMR 2.430(4).

(3) Refugee Medical Assistance. A refugee who is ineligible for Medicaid (referred to as MassHealth in Massachusetts) is eligible for Refugee Medical Assistance during his/her first eight months in the United States. A refugee who becomes ineligible for Refugee Cash Assistance because of income may continue to receive Refugee Medical Assistance during his/her first eight months in the United States.

2.505: Determination of Financial Eligibility and Refugee Cash Assistance

There are four steps in determining financial eligibility and grant amount:

- (a) Determining who shall be in the filing and assistance units;
- (b) Determining how much countable earned and unearned income there is in the filing unit;
- (c) Making allowable deductions from earned income;

2.505: continued

(d) Comparing the filing unit's total countable income after allowable deductions to the Standard of Assistance (121 CMR 2.555) for the number of people in the assistance unit. If it is less than the Standard of Assistance for the number of people in the assistance unit, the assistance unit is eligible, and the monthly grant amount is the difference between the Standard of Assistance and total countable income after allowable deductions. If the filing unit's total countable income after allowable deductions is greater than the Standard of Assistance in the assistance unit, the assistance unit is not eligible.

2.510: Assistance Unit

Refugees who live together and meet the non-financial eligibility requirements for MRRP shall be considered to be an assistance unit according to the following:

- (a) Each childless, unmarried adult 18 years of age or older is an assistance unit.
- (b) Each emancipated minor is an assistance unit. An emancipated minor is an individual younger than 18 years old who is married, divorced, or separated; has served in the armed forces; or has been emancipated by a court.
- (c) Each married couple having no dependent children is an assistance unit.
- (d) Dependent children younger than 18 years old, and their siblings or half-siblings who are dependent children, and their parents or adult caretakers are an assistance unit.

2.515: Filing Unit

(1) The filing unit consists of the members of the assistance unit and anyone else residing in the household who has a legal obligation to support a member of the assistance unit. A refugee who is in the filing unit but not in the assistance unit will most typically be a parent or spouse who is no longer time eligible for MRRP. A non-refugee may be in the filing unit but not the assistance unit.

(2) Natural or adoptive parents have a legal obligation to support dependent children, and spouses have a legal obligation to support each other.

(3) The income of members of the filing unit shall be considered in the same manner regardless of whether or not they are in the assistance unit, except that an amount equal to the Standard of Assistance for the number of people who are in the filing unit and not in the assistance unit shall be deducted from countable income.

2.520: Income in General

(1) Income may be either countable or non-countable and earned or unearned.

(2) All countable income is considered on a monthly basis and is applied to the determination or redetermination of eligibility and calculation of grant amount in the month in which it is expected to be received by the filing unit. Amounts of income paid in other than monthly amounts must be converted to monthly amounts.

(3) The most current monthly income information provided to the Case Management Agency is used as the basis for the eligibility determination and grant calculation until information is received indicating a change in income or eligibility. If verified income information indicates an underpayment, an adjustment shall be made promptly.

2.525: Types of Countable Income

(1) Earned Income. Earned income is income, in cash or in-kind, earned through employment or self-employment. Earned income may be received as wages, salary, Earned Income Credits, tips, commissions, or in-kind. For employees, earned income is the total gross amount received.

With respect to self-employment, earned income is the total gross income less total business expenses. Business expenses do not include personal expenses, such as lunches and transportation to and from work.

2.525: continued

(2) Unearned Income. Unearned income is all income that a person does not earn by the application of his or her own efforts, or by the application of his or her own managerial skills. Unearned income includes, but is not limited to:

- (a) Dividends;
- (b) Interest;
- (c) Unemployment Compensation payments;
- (d) Pensions; and
- (e) Contributions.

(3) In-kind Income. Income-in-kind is income in any form other than money. It may consist of a share of crops, free services, free rent, free utilities, clothing, or food, but it is not necessarily limited to these. It may be earned or unearned.

For purposes of financial eligibility for Refugee Cash Assistance and calculation of the grant amount, shelter (including rent, mortgage, fuel or utilities) and food provided at no cost to the refugee shall be valued at ORI's Guide for Income-in-Kind, 121 CMR 2.560 .

(4) Roomer and Boarder Income. When a refugee provides a room or room and board in his or her home or rented dwelling to a person not included in the filing unit, he or she shall be considered to be self-employed. The amount received from the roomer or boarder, less, whichever is greater, actual business expenses, or as a business expense allowance, 25% of the income from roomers and 75% of the income from boarders, shall be deemed earned income. A refugee who receives income from a roomer or boarder shall be allowed the earned income deductions under 121 CMR 2.535 except for the dependent care and travel expense deductions. A simple sharing of expenses by members of a household does not establish either a roomer or boarder relationship and is not income to members of the household.

(5) Lump Sum Income. Lump sum income is a one-time nonrecurring payment, such as lottery winnings, inheritances, settlements, or awards. Unless it qualifies as non-countable under 121 CMR 2.530, it shall be treated as income in the month received.

(6) Child Support and Alimony.

2.530: Non-countable Income

The following income is never countable:

- (a) All income of any member of the filing unit:
 - 1. Who receives Supplemental Security Income (SSI) payments; or
 - 2. For whom state and/or federal foster-care maintenance payments are being provided, including the child of the foster child when the foster-care maintenance payment includes the child;
- (b) The cash value (face amount) of Food Stamps and the cash value of USDA-donated Food Stamps or surplus commodities;
- (c) Payments under the Nutrition Program for the Elderly (Title VII of the Older Americans Act of 1965);
- (d) The value of assistance received under the Child Nutrition Act of 1966 and the National School Lunch Act;
- (e) Home produce for consumption by members of the filing unit and their families;
- (f) Expense allowances and weekly incentive payments of up to \$30 from the Division of Employment and Training and expense allowances authorized under MRRP, including the MRRP Early Employment Incentive;
- (g) Training or work related expenses approved by ORI;
- (h) Incentive payments of \$30 per week or less received under a vocational rehabilitation program of the Massachusetts Rehabilitation Commission;
- (i) Reimbursement payments for education and/or training-related expenses received from participation in programs administered by other agencies and organizations that are non-duplicative of Refugee Cash Assistance payments and are provided for specific goods or services. Such reimbursement payments include, but are not limited to, transportation allowances, childcare costs, and the costs of books, supplies, or uniforms;
- (j) Any grant, including but not limited to scholarships, the terms of which preclude its use for current maintenance;

2.530: continued

- (k) Any grant or loan to an undergraduate student for educational purposes made or insured under any program administered by the United States Commissioner of Education;
- (l) Irregular or infrequent income, such as gifts, that cannot be reasonably projected over time and are less than \$30 per refugee in any quarter;
- (m) Contributions from people not legally responsible for the support of a member of the assistance unit that are restricted for a specific purpose and provide for a portion of the needs specified in 121 CMR 2.560: *Guide for Income-in-kind*, or provide for needs not included in 121 CMR 2.560 .

A contribution from a nonlegally responsible person that meets the entire cost of one or more of the needs specified in 121 CMR 2.560 is countable income and is deducted using the standard values in 121 CMR 2.560.

- (n) Payments to, or reimbursement given to volunteers serving as foster grandparents, senior health aides, or senior companions, or serving in the Service Corps of Retired Executives, or in VISTA, or in any other program established under the Domestic Service Act of 1973;
- (o) Highway relocation assistance payments, Urban Renewal Assistance payments, disaster relief payments used for relocation, and payments from private agencies used for relocation.
- (p) Housing subsidies received under any Massachusetts or Federal housing program including utility allowances paid under such programs;
- (q) A loan verified by a written document, signed by the borrower, that expresses the borrower's intent to repay;
- (r) All earned income of a child younger than 14 years old, and all earned income of a dependent child younger than 19 years old who is a full time student;
- (s) Foster Parent Payments made by any public or licensed private non-profit Child Welfare Agency;
- (t) Payments from the Home Energy Assistance Program;
- (u) Assistance from other social service agencies or organizations that does not duplicate assistance received under MRRP;
- (v) MRRP payments resulting from a correction of an underpayment or a fair hearing decision;
- (w) Refunds from a utility company, landlord or other vendor that were originally from MRRP benefits, fuel assistance, or other non-countable income funds;
- (x) Any portion of a Workers' Compensation, property damage, personal injury, Compensation to Victims of Violent Crimes Act, or death settlement or award that is spent for the purpose for which it was originally earmarked and is not compensation for lost wages;
- (y) Up to the first \$50 in current child support received on the family's behalf and paid to the family in any month;
- (z) Earned income tax credits whether received as advance payments of earned income tax credits or as part or all of an income tax refund;
- (aa) Money received from a loan secured by the equity in the home of an individual who is 60 years of age or older (so-called "reverse mortgage"); and
- (bb) Payments under TAFDC or Emergency Aid to the Elderly, Disabled and Children (EAEDC).

2.535: Deductions from Earned Income

- (1) \$90 Work-related Expense Deduction. A member of the filing unit, regardless of refugee status, is entitled to a \$90 monthly deduction from gross wages in determining eligibility and in determining the amount of a Refugee Cash Assistance grant.
- (2) \$30 and One-third Disregard. A member of the filing unit, regardless of refugee status, after the \$90 work-related expense deduction, but before a dependent care deduction and transportation expense deduction, is eligible to have \$30 and one-third of the remaining gross earned income disregarded.
- (3) Dependent Care Deduction.
 - (a) Requirements. A member of the filing unit who is employed may receive a deduction from income equal to the expenditure for the care of a dependent child or an incapacitated individual requiring such care, if:

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1. the dependent child or incapacitated individual is a member of the filing unit;
 2. the provision of such care is necessary for the filing unit member to be employed;
- and

2.535: continued

3. the refugee is not otherwise reimbursed for such care.
- (b) Maximum Deductions Allowed. The amount allowed as a deduction for a member of the filing unit who is employed full-time shall be the cost of dependent care, including the cost of transporting dependents to and from dependent care, but shall not exceed \$175 per dependent child age two or older, or incapacitated individual per month. The monthly maximum allowable deduction shall not exceed \$200 for a dependent child younger than two years old.
- A person employed less than full-time may receive a proportionate share of the maximum allowable deduction according to the following standards.

<u>WEEKLY HOURS</u>	<u>MONTHLY HOURS</u>	<u>MAXIMUM DEPENDENT 2 YRS OR OVER</u>	<u>DEDUCTIONS CHILD UNDER 2 YRS</u>
1 - 10	1 - 43	\$44	\$50
11 - 20	44 - 87	\$88	\$100
21 - 30	88 - 130	\$132	\$150
31 - above	131 - above	\$175	\$200

The allowable deduction shall always be the lesser of the actual cost or the maximum allowable.

- (c) Verification. The expenses for which the dependent care deduction is claimed shall be verified at the same time income is verified and when there are any changes in costs or need as specified in 121 CMR 2.535(3)(c)1. through 3.:
- Acceptable verifications for dependent care expenses are a signed and dated statement from the dependent care provider or a canceled check or money order payable to the dependent care provider.
 - If none of the above documents are available, verification of dependent care expenses shall be a dated statement of the actual cost of dependent care, signed by the employed individual.
 - The verification of the cost of transporting dependents to and from dependent care shall be a signed and dated statement from the employed individual stating the actual cost of such transportation.
 - The incapacity of an individual in the assistance unit, other than a dependent child, for whom dependent care costs are being claimed, must be verified. Incapacity is verified by a current statement from a competent medical authority.
- (4) Transportation Expense Deduction.
- (a) Requirements. An employed member of the filing unit may deduct from his or her earnings an amount equal to the cost of transportation necessary for him or her to maintain employment as long as:
- There is no other person or agency available to pay the costs or provide the transportation at no cost to the employee; and
 - The employee is using the least costly mode of transportation.
- (b) Maximum Deduction. The deduction for transportation expenses shall not exceed \$150.00 per month of verified participation and shall be based on the actual cost to the participant, as reasonably incurred, of transportation by:
- public bus or rail; or
 - private automobile, by applying the mileage rate currently allowed State employees.
- (c) Verification. A participant shall verify transportation expenses by giving his/her case manager a statement of costs per month indicating mode of transportation. Transportation expenses shall be verified whenever income is verified and whenever there is a change in costs or mode of transportation.

2.540: Verification and Determination of Income

(1) Verification and Determination of Monthly Wages. Earned income from wages shall be verified at application, whenever there is a change in amount, and at any time a member of the filing unit reports he or she has commenced employment. Earned income shall be verified by pay stubs, pay envelopes, a written statement signed by an employer and/or client, or a verbal statement by the employer and/or client. The verification must show the gross wages (including tips, if applicable) and the number of hours worked.

(a) If the employee is paid weekly, the average of the four consecutive weeks' pay received prior to the application date shall be multiplied by 4 or 4.333 to obtain an average monthly wage. If the filing unit member has worked less than four weeks, any wage information that is available will be used initially, and the figure shall be revised if necessary when four consecutive weeks of wage information is available.

(b) If the employee is paid bi-weekly, an average of the last two consecutive pay periods shall be multiplied by 2 and 1/6 or 2.167 to obtain a monthly figure. If the employee is paid twice a month, the last two consecutive pay periods shall be added to obtain a monthly figure.

(c) If the employee is paid monthly, the monthly figure shall be used.

(d) If the employee receives a contractual annual salary, the amount to be used is the contractual annual salary divided by 12. Verification of the annual salary should be obtained in the form of a signed copy of the contract or a signed letter stating the annual salary to be received.

(e) Pay stubs, pay envelopes, or a written statement signed by an employer showing wages paid and the number of hours worked in the year to date may be used to determine an anticipated monthly wage if the number of weeks' pay represented is shown or can be computed. The average weekly earnings derived are multiplied by 4 and or 4.333 to obtain a monthly figure.

(2) Verification and Determination of Self-employment Income. Self-employment income is verified on a monthly basis by means of business records that show the total amount of income and the total business expenses associated with the gross income earned. Business expenses may be verified by records of bank deposits, records of wages paid to employees, and Social Security and other taxes paid on, and withheld from those wages, rent receipts, utility payments receipts, bills of lading, receipts for purchase of stock, and Workers' Compensation payment records.

(3) Unearned Income. Unearned income shall be verified at application and whenever there is a change in income. Income that is received on other than a monthly basis shall be converted to a monthly amount in the same manner as earned income.

Unearned income shall be verified by a copy of the benefit payment check, a copy of a benefit or award letter, retirement fund documents, Social Security benefit statements, a written statement indicating the amount and frequency of the payment from the agency or person making the payment, or information received by ORI or the Case Management Agency from agencies such as the Social Security Administration, Department of Transitional Assistance or Division of Employment and Training indicating the current amount and frequency of the payment.

2.545: Failure To Cooperate

If the financial eligibility of the assistance unit cannot be determined because of the failure or refusal of any member of the filing unit to provide information or verification, the entire assistance unit is ineligible, and Refugee Cash Assistance shall be denied or terminated.

2.550: Determination of Financial Eligibility and Calculation of the Grant Amount

Financial eligibility and the grant amount are calculated as follows:

Step 1: Identify the earned income of each member of the filing unit, excluding non-countable income.

Step 2: Subtract sequentially from the remaining gross earnings of each member of the filing unit an amount of income equal to:

- (a) the \$90 work-related expense deduction;
- (b) the \$30 and one third disregard;
- (c) any allowable dependent care deduction;

- (d) any allowable transportation expense deduction.

2.550: continued

- Step 3: Total the countable earned income remaining from the filing unit.
- Step 4: Total the countable unearned income from the filing unit.
- Step 5: Add the totals from Steps 3 and 4.
- Step 6: Subtract from the Step 5 total the Standard of Assistance for the members of the filing unit who are not in the assistance unit, if any.
- Step 7: Subtract the Step 6 result from the Standard of Assistance appropriate to the assistance unit. If the result is less than or equal to zero, the assistance unit is ineligible. If the result is greater than zero, the assistance unit is eligible to receive the resulting amount.

2.555: Standard of Assistance Table

The figures in the Standard of Assistance Table are the maximum amounts that an assistance unit may receive as monthly Refugee Cash Assistance.

<u>Assistance Unit Size</u>	<u>Amount</u>
1	\$428.00
2	531.00
3	633.00
4	731.00
5	832.00
6	936.00
7	1,037.00
8	1,137.00
9	1,237.00
10	1,338.00
Increment	105.00

2.560: Guide for Income-in-kind

Income-in-kind is income other than cash provided to the assistance unit. It may consist of free shelter, free utilities, or free food. If the actual entire cost of any of these items is provided to the assistance unit, the following values shall be given to them as income.

Table of Monthly Values For Income-in-kind

<u>Income-in-Kind</u>	<u>Value per Assistance Unit</u>
Rent or Mortgage, Unheated Facility	\$102.00 per month
Rent or Mortgage, Heated Facility	126.30 per month
Fuel	27.90 per month
Utilities	18.60 per month
Food (Individual)	41.80 per month

2.565: Frequency of Grant Payments

Refugee Cash Assistance grants are paid in semi-monthly checks.

2.600: Determination of Initial and Continuing Eligibility

Case Management Agencies are responsible for the determination of initial and continuing eligibility. Refugees shall cooperate in this process as a condition of eligibility.
The application process consists of the tasks that determine the eligibility of an MRRP applicant. These tasks begin with the filing of an application and end with a final decision on the application.

2.605: Assignment of Case Management Agencies

- (1) If the VOLAG that initially resettled the refugee is a Case Management Agency, it shall become the Case Management Agency for the refugee as long as he or she resides within the area the Case Management Agency serves. Otherwise, it shall refer the refugee to a Case Management Agency designated by ORI. The VOLAG shall forward to the Case Management Agency all information in its possession necessary to determine eligibility and assess the needs of the refugee.
- (2) If a refugee moves outside the area served by his or her Case Management Agency, he or she shall be served by the Case Management Agency serving his or her new area. If there is more than one Case Management Agency serving the area, ORI shall assign a Case Management Agency to serve the refugee. Case management agencies shall notify ORI whenever a refugee arrives from another state, and the Case Management Agency cannot serve the refugee.

2.610: The Application

- (1) The application for refugees for whom Massachusetts is the state of initial resettlement in the United States shall be completed during the first five working days that they are in the State in order that they may start employment services and employment as soon as possible.
- (2) Assistance to an eligible applicant begins on his or her date of entry into the United States. If an applicant submits all required verifications, and the initial Refugee Cash Assistance benefit is issued within 31 days of the date of entry, ORI shall be considered to have met its application time standards.
- (3) For secondary migrant refugees and asylees, the Case Management Agency shall mail or give to the applicant a written determination of eligibility within two working days of receiving all necessary verifications. If a secondary migrant refugee or asylee is eligible for Refugee Cash Assistance, the effective date for start of assistance is the date of application.
- (4) Emergency Payments: An emergency payment shall not exceed \$100 or 50% of the anticipated amount of the refugee's next Refugee Cash Assistance payment, whichever is smaller. It shall be issued within one working day of the time the refugee establishes his or her eligibility for the payment. The refugee shall acknowledge in writing that the payment will be deducted from his or her next Refugee Cash Assistance payment. It shall be issued with the specific approval of ORI only when a refugee has urgent needs that cannot wait for the normal issuance of a check and only in the following circumstances:
 - (a) A refugee's check has been lost or stolen;
 - (b) A refugee has suddenly lost a job without notice and is eligible for Refugee Cash Assistance; or
 - (c) An eligible secondary migrant or asylee has applied for assistance and has no other resources.

2.615: Filing of Application

- (1) Right to Apply. Every person has the right, and shall be given the opportunity, to apply for MRRP without delay. Individuals who inquire about assistance shall be given information about MRRP. The Case Management Agency must accept for decision all applications for MRRP even if a given applicant appears to be ineligible.
- (2) Definitions.
 - (a) An application is a signed and dated request for assistance on a form prescribed by ORI. The application is filed when the applicant signs and dates the prescribed form. The case manager and the applicant complete the application together.
 - (b) An inquiry is a request for information about MRRP or its eligibility requirements. An inquiry may result in an application, referral to another agency, or no further action.
- (3) Activities to be Completed Within 24 Hours. If the Case Management Agency cannot complete the application form within 24 hours of filing, excluding weekends and holidays, the Case Management Agency shall within 24 hours, complete the following activities:

2.615: continued

- (a) Log the case in the Case Management Agency's records. Logging includes recording the applicant's name, address, telephone number, and the date on which the application for assistance was filed; and
- (b) Orally inform the applicant of the steps that he or she must take to complete the application and of the general verification requirements, and give the applicant a written list of verifications known to be missing at the time.

2.620: Application Activities

(1) Completion of Forms. The ORI Application for the Massachusetts Refugee Resettlement Program is the form for the determination of initial eligibility. The Case Management Agency is responsible for the completion of the form which is then signed by both the case manager and the applicant. The Case Management Agency is responsible for accurately recording the information provided by the applicant.

(2) Identification of the Applicant. The Case Management Agency must establish the identity of the applicant unless it served as the Reception and Placement agency. Proof of identity may be biographical data received from the Department of State, INS documents, a driver's license, marriage license, employment papers, or an affidavit from a third party who has first-hand knowledge of the applicant, if the applicant has demonstrated that he or she has tried unsuccessfully to obtain other documentation.

(3) Development of Other Benefits.

(a) TAFDC and SSI. The Case Management Agency shall refer an applicant who appears to be eligible for SSI or TAFDC to the Social Security Administration or the Department of Transitional Assistance, respectively. (121 CMR 2.450, 2.460).

(b) Medicaid (referred to as MassHealth in Massachusetts). The Case Management agency shall complete an application for MassHealth for those refugees who appear to be eligible for TAFDC, and forward it to the Division of Medical Assistance for a determination of eligibility.

(c) Food Stamps. The Case Management Agency shall refer the refugee to the Department of Transitional Assistance to apply for Food Stamps.

(d) Other Programs. The Case Management Agency shall inform the refugee of other programs for which he or she may be eligible, such as Fuel Assistance, Emergency Assistance, and Housing Assistance. The Case Management Agency shall refer the refugee to agencies responsible for the delivery of such services and provide whatever verifications the Case Management Agency has that will assist the refugee to obtain the benefits.

(4) Explanation of Rights and Responsibilities. The Case Management Agency shall inform the applicant at the time of application of the rights and responsibilities associated with the MRRP Program. The applicant shall sign an acknowledgement of his or her rights and responsibilities.

(5) Verification of Information. Verification is the validation of written or oral statements, in order of preference, by means of documentation, third party contacts, and self-declarations by the applicant or participant. Self-declarations may never be used to verify refugee status, date of entry, or participation in activities that are required under a Family Employment Plan.

Documentation that is part of the R&P record that verifies information submitted by the applicant or participant shall be considered sufficient verification of an eligibility factor. The applicant or participant may submit additional documentation to challenge the accuracy of the information.

In addition to identity, income and the factors listed in 121 CMR 2.400 through 2.490, the following eligibility factors must be verified at application:

- (a) Age;
- (b) Family Relationship; and
- (c) Application for a social security number.

The Case Management Agency shall require verification of factors not listed above when the information available to it is contradictory, inconsistent or incomplete, or when it determines that verification is necessary to ensure efficient administration of MRRP.

2.620: continued

(6) Releasing Information to VOLAGs and other Case Management Agencies. If the Case Management Agency is not the VOLAG that resettled the refugee, the Case Management Agency shall notify the VOLAG that the refugee has applied for cash assistance. If the refugee had participated in the MRRP with another Case Management Agency, the current Case Management Agency shall notify the former Case Management Agency. The Case Management Agency shall advise the refugee of this disclosure requirement.

2.625: Methods of Verification

The Case Management Agency may receive most verifications via biographical data provided to it by the Department of State as part of Reception and Placement. Many eligibility factors specify what constitutes verification. When verifications are not available from Reception and Placement documents, unless otherwise specified, the following, in order of preference, may be used as verification:

(1) Original Documents. When the verification is an original document, a photocopy of the document shall be made, if possible. If circumstances prevent the photocopying of a document and a copy is not available, the Case Management Agency shall record in the case record the date and source of the document, a summary of its contents and the date the summary was made.

A photocopy should be obtained as soon as possible. The applicant or participant shall be permitted to keep the original document.

(2) Collateral Contact. Third-party contact is verbal or written confirmation of an applicant or participant's circumstances by a third party, and it may be used to verify certain types of information. The Case Management Agency shall obtain written consent from the applicant or participant for each contact, except as specified in 121 CMR 2.625(4): *Information from Government Sources and Banks* and except for information from agencies serving the applicant or participant as part of the Family Employment Plan.

If the applicant or participant refuses to allow ORI to verify information by contacting a third party, assistance shall be denied, terminated, or reduced unless the applicant or participant provides alternative verification. Statements from third parties may be accepted in person, through the mail, and over the phone.

The Case Management Agency shall evaluate the acceptability of the statement as verification of the particular information. The Case Management Agency shall record in the case record the date on which the statement was made, the information, the name, address, telephone number, and position of the person making the statement.

(3) Self-declaration. A self-declaration is a written statement of fact that may be given by the applicant or participant or by a third party who has first-hand knowledge of the circumstances of the applicant or participant. When the applicant or participant and the case manager have taken all necessary steps to obtain through third party contact documentary evidence, and it is not available, a self-declaration may be accepted as verification of the following eligibility factors:

- (a) Age;
- (b) Family Relationship; and
- (c) Factors otherwise specified in 121 CMR 2.000.

(4) Information from Government Sources and Banks. The Case Management Agency shall inform the applicant or participant that the Case Management Agency and ORI may request information from other sources for purposes of verifying eligibility. These include, but are not limited to, banks and other financial institutions, the Division of Employment and Training, the Registry of Motor Vehicles, the Bureau of Vital Statistics, the Department of Revenue, the Bureau of Special Investigations, the Internal Revenue Service, the Social Security Administration, the Immigration and Naturalization Service, the Department of State and the Department of Transitional Assistance.

The Case Management Agency and ORI are not required to obtain the prior approval of the applicant or participant to acquire and use information from banks or government sources to verify eligibility.

2.625: continued

(5) Case Manager's Observation. A case manager may verify information by personal observation, noting the observation in the case record.

2.630: Concluding the Application Process

(1) Approval or Denial. The application process shall be concluded by an approval or denial of the application unless the applicant voluntarily withdraws his or her application. The approval or denial must be supported by facts recorded in the case record. The Case Management Agency shall send adequate notice to the applicant immediately upon determination, but no later than five working days from the receipt of verifications as required by 121 CMR 2.635(2).

(a) Eligibility. The Case Management Agency shall notify eligible applicants in writing of the approval. The notice shall include the effective date of eligibility; the amount of cash assistance authorized, if any; and an explanation of the right to appeal.

(b) Ineligibility. If the applicant, or any other family member(s) for whom assistance is requested, is determined to be ineligible, the applicant shall be notified in writing of the denial. The notice of denial shall include the reason(s) for the denial, the specific regulations supporting the denial and an explanation of the right to appeal.

If the adverse action is the result of the lack of verifications required to make a determination of eligibility, the written notice shall contain a list of the missing verification(s) and shall inform the applicant that a second eligibility determination will be made based on the date of application if the missing verifications are submitted within 30 days of the date of the denial notice.

(2) Voluntary Withdrawal. The applicant may voluntarily withdraw his/her application at any time. The request must be made in writing and must be confirmed by the Case Management Agency through a notice sent to the applicant and recorded in the case record.

(3) Unable to Locate. If the Case Management Agency cannot locate the applicant after reasonable attempts, the application shall be denied. Prior to denial, the Case Management Agency shall notify the applicant of these efforts by mail at the given address and allow a reasonable time for response. If no response is received or if mail is returned by the Postal Service as undeliverable with no forwarding address, assistance shall be denied.

2.635: Dates Refugee Cash Assistance and Refugee Medical Assistance Begin

(1) Refugee Cash Assistance and Refugee Medical Assistance to eligible refugees begin on the refugee's date of entry into the United States; except for:

(a) Match Grant refugees, for whom Refugee Cash Assistance begins on the 121st day from the date of entry. (Eligibility for Refugee Medical Assistance begins with the date of entry.)

(b) Secondary migrant refugees, for whom Refugee Cash Assistance and Refugee Medical Assistance begin on the date of application.

(c) Asylees, for whom Refugee Cash Assistance and Refugee Medical Assistance begin on the date of application.

(2) All verifications shall be submitted within 14 working days from the date of application, otherwise the application will be denied on the basis of missing verification.

(3) If the verifications submitted during the application process do not establish eligibility on or before the date of application, cash assistance is effective on the date on which the verifications establish eligibility.

2.640: Reapplication

An individual whose application for the MRRP has been denied has the right, and shall be given the opportunity, to reapply for the MRRP without delay.

If the Case Management Agency was unable to make a determination of eligibility solely because required verifications were not provided, and if the applicant subsequently submits all required verifications within 30 calendar days of the date of the denial notice, the applicant shall not be required to submit another application. The Case Management Agency shall make a second determination of eligibility based on the information submitted during the initial

application process and during the 30 calendar days after the denial notice.

2.640: continued

If a reapplication is submitted, it shall be associated with the original application, and the applicant shall not be required to resubmit any verifications that are in the case record and that are not subject to change.

2.645: Case Review

A case review is necessary to establish that a refugee remains eligible for MRRP and to monitor progress toward durable self-sufficiency. The focus of the case review process is on those factors of eligibility that are potentially subject to change and on the progress of the assistance unit toward early employment and durable self-sufficiency. The case manager shall review an assistance unit's case record to ensure continuing eligibility, to assess progress toward early employment and durable self-sufficiency and to ensure the accuracy of Refugee Cash Assistance payment amounts and the appropriateness of other MRRP services.

A case manager may schedule a personal interview with a refugee as part of a case review, if the case manager is aware of changes or anticipated changes in family composition, employment, income, other circumstances that may affect eligibility, or an approaching or passed critical point in the Family Employment Plan. The case manager may also schedule an interview if necessary to resolve conflicting information. Failure to attend an interview may result in termination of eligibility, as specified in 121 CMR 2.340.

2.650: Frequency of Verification

(1) Some information, because it is not subject to change, need only be verified once, unless at a later date questions are raised about the current validity of the verification. Such factors include, but are not limited to: age, identity, and relationship.

(2) Information that is subject to change must be reverified at times of reported changes or whenever ORI or the Case Management Agency receives information that a change has or may have occurred that affects continued eligibility. Such factors include, but are not limited to: participation in activities required by the Family Employment Plan, incapacity, income, school attendance, and work-related expenses such as dependent care and transportation expenses.

2.655: End of Time-eligibility Period

A refugee who has been in the country for more than the time-eligibility period set by the federal Office of Refugee Resettlement is no longer eligible for Refugee Cash Assistance or Refugee Medical Assistance under the MRRP. As of October 1, 2002, time eligibility for Refugee Cash Assistance and Refugee Medical Assistance expires at the end of the eighth month a refugee is in the United States. A refugee may be eligible for assistance under other programs.

The Case Management Agency shall review cases at least 30 days prior to the expiration of eligibility and refer refugees to the Department of Transitional Assistance, the Division of Medical Assistance or other agency(ies) that may offer support when it appears that such support or other services will be needed. The Case Management Agency shall make referrals in a timely manner that will minimize the chances of an interruption in assistance.

If there is a dispute as to a refugee's date of entry, it shall be resolved by information from the Immigration and Naturalization Service rather than by fair hearing. If such information is not available in the case record or its accuracy is disputed, the Case Management Agency shall assist the refugee in obtaining correct information from INS. Until corrected by INS, the date of entry into the United States shall be the date in the case record from INS.

2.660: Notice

(1) Adequate Notice. The Case Management Agency shall give applicants and recipients adequate notice of any action to deny, reduce, suspend or terminate assistance. The notice shall contain:

- (a) A statement of the intended action;
- (b) The reason(s) for the intended action;
- (c) A citation to the regulation(s) supporting the action;
- (d) An explanation of the right to request a fair hearing;
- (e) The circumstances under which assistance is continued if a hearing is requested; and

2.660: continued

(f) A statement that if the action is upheld, assistance paid pending appeal is subject to recoupment.

When changes in either federal or state law require automatic grant adjustments for classes of recipients, notice to the recipient shall be considered adequate if it includes a statement of the specific change in law requiring the action rather than a citation to a regulation required in 121 CMR 2.660(1)(c).

(2) Timely Notice. In addition to being "adequate notice" as described in 121 CMR 2.660(1), a notice of adverse action shall be timely in that it shall be mailed or given to the applicant or participant at least ten calendar days before the effective date of the proposed action.

(3) Timely Notice Exceptions. The Case Management Agency need not send a timely notice, but must send an adequate notice (as defined in 121 CMR 2.660(1)), no later than the date of the action when:

- (a) There is factual information that a refugee has died, and he or she is the only member of the assistance unit.
- (b) A refugee has signed a statement that he or she no longer wishes assistance.
- (c) The refugee has been institutionalized, and he or she is the only member of the assistance unit.
- (d) The refugee has been determined eligible for TAFDC or SSI;
- (e) The Case Management Agency has no knowledge of a refugee's whereabouts, and mail directed to the person has been returned by the Postal Service as undeliverable with no forwarding address. However, a participant's check must be made available if his or her whereabouts become known during the period covered by the check.
- (f) A special allowance granted for a specific period is terminated, and the refugee was notified in writing at the time of initiation of the special allowance that it would be automatically terminated at the end of a specified period.

2.665: Notification of the Right to Request a Hearing

(1) At the time of application and at the time of any Case Management Agency action affecting his or her assistance, each applicant or participant shall be informed in writing of his or her right to a hearing, of the method by which a hearing may be requested, and of the right to an authorized representative.

(2) Whenever an applicant or participant indicates disagreement with a Case Management Agency action, the applicant or participant shall be informed of the right to request a fair hearing. This includes a determination on a claim of exemption from participation under 121 CMR 2.725 or a denial of a claim of good cause under 121 CMR 2.730.

(3) The Case Management Agency shall assist the applicant or participant in requesting a fair hearing by providing an appeal form and, if requested, by helping with the completion of the form. The Case Management Agency must assure the unrestricted freedom to request a fair hearing.

(4) If there is an individual or organization that provides free legal representation, the Case Management Agency shall inform the applicant or participant requesting a hearing of the possible availability of that service.

2.670: Time Limits for Requesting a Hearing

(1) The date of request for a fair hearing is the date on which ORI receives a written statement from the applicant or participant or his or her representative appealing an action or proposed action or failure to act by a Case Management Agency. Receipt by the refugee's Case Management Agency, who shall forward the request to ORI, shall also constitute receipt by ORI.

(2) The request for a fair hearing must be postmarked or delivered to ORI or the refugee's Case Management Agency within the following time limits:

- (a) 45 days from the date of official written notice of action by the Case Management Agency.

2.670: continued

- (b) Unless waived by the ORI Director or his or her designee, 60 days from:
 1. The date of application when the Case Management Agency fails to act on an application;
 2. The date of request for service when the Case Management Agency fails to act on said request; or
 3. The date of Case Management Agency action when the Case Management Agency fails to send official written notice of the action, unless the appellant files an affidavit with the Director of ORI stating that he or she:
 - a. Did not know of the right to appeal;
 - b. Reasonably believed that the problem was being resolved administratively;
 - c. Was justifiably unaware of the conduct in question; or
 - d. Was unaware of the action taken.

2.675: Continuation of Benefits Pending Appeal

- (1) If a refugee requests a hearing (postmarked or delivered to ORI or the refugee's Case Management Agency) within the ten-day timely notice period, Refugee Cash Assistance shall not be reduced or terminated until a decision is made after a hearing, unless:
 - (a) The sole issue is one of state or federal law requiring automatic adjustments for classes of participants and the computation of the grant is not an issue;
 - (b) A change affecting the participant's grant occurs while the fair hearing decision is pending and the participant fails to request a hearing after notice of the change;
 - (c) The participant requests that he or she not receive continued assistance pending appeal; or
 - (d) The reason for termination is the expiration of time eligibility unless there is a factual dispute about the dates of eligibility, but see 121 CMR 2.655 for resolution of disputes regarding dates of entry.
- (2) Refugee Cash Assistance paid while an appeal is pending is subject to recoupment if the decision to reduce or terminate is upheld.

2.700: Employment Services

- (1) Services. ORI contracts with Employment Service Agencies and others for the provision of employment services that are designed to help the primary participant(s) achieve early employment and help the family to achieve durable self-sufficiency as quickly as possible.
- (2) Family Employment Plan. Refugees participate in employment services according to the requirements of 121 CMR 2.000 and their Family Employment Plan. The Family Employment Plan is a detailed action plan having definite short-term and long-term employment goals. The short-term goals are designed to assist a primary participant to enter the workforce as soon as possible. The long-term goals relate to durable self-sufficiency for the assistance unit. The Plan shall contain specific benchmarks and timelines for anticipated services required to achieve the short-term and long-term goals. It will designate as the primary participant(s) the adult member(s) of the assistance unit most appropriate for early employment.
 The Plan and any modifications to it are the result of consultations among the assistance unit's employable member(s) and his/her case manager and employment specialist. The Plan and any modifications shall be a written document signed by the primary participant, the client's case manager and the client's employment specialist.

2.705: Pre- and Post-employment Services

- The following describes some of the services available, subject to funding, eligibility and inclusion in a Family Employment Plan. They are designed as pre-job placement services to help the primary participant become employed as soon as possible and as post-job placement services to help the family achieve durable self-sufficiency.
- (a) Assessment is the development of a composite profile of the participant's work history, training, education, physical condition, competencies, English language proficiency, present degree of employability, and existing barriers to employment.

2.705: continued

- (b) Information and Referral provides the participant with an accurate and current knowledge of resources available to accelerate progress toward early employment and durable self-sufficiency and provides help to enable participants to identify and gain access to resources appropriate to their needs.
- (c) Pre-employment Orientation is an activity, including instruction that familiarizes the participant with American work habits and procedures and provides information and preparation necessary to find and maintain employment.
- (d) Job Counseling is interaction with the participant designed to help him or her in making decisions that will lead to overcoming barriers to employment and to acquire skills needed to be a competitive job seeker and productive worker.
- (e) Job Development is the development of entry-level employment opportunities and employment opportunities at higher levels that contribute toward the achievement of durable self-sufficiency.
- (f) Job Placement is the employment specialist's placement of a participant into a job.
- (g) Follow-up Services assist a participant in making the successful transition to employment by providing the necessary support to the participant and employer so that the participant is able to maintain his or her job and move toward durable self-sufficiency.
- (h) English-as-a-second Language (ESL) is language training designed to provide the participant with the language skills and cultural background needed to seek and maintain entry level employment. ESL may be available as a post-placement activity to provide the participant with the skills necessary to upgrade employment.
- (i) Vocational English-as-a-second Language (VESL) focuses on a given occupation or specific vocational area that reflect local employment needs. It provides the language skills needed to seek, retain or upgrade employment in a specific vocational area.
- (j) Post Employment Vocational Skills Training (PEVST) provides short-term job skills training to assist refugees to upgrade current employment or to obtain new employment with clearly defined career advancement opportunities.

2.710: Support Services

Subject to available funds, time eligibility, and other eligibility requirements, MRRP offers the following employment support services:

- (a) Refugee Cash Assistance;
- (b) Refugee Medical Assistance;
- (c) Early Employment Incentive;
- (d) Child Care Expense Reimbursement; and
- (e) Transportation Expense Reimbursement.

2.711: Refugee Cash Assistance and Refugee Medical Assistance

- (1) Refugee Cash Assistance is available to the participant as temporary financial support. It is also available to certain refugees who are exempt from participation. Non-financial and financial eligibility requirements and factors are described in 121 CMR 2.400 through 2.565.
- (2) Refugee Medical Assistance is available to a refugee to provide access to medical care. It is available to participants and non-participants. Eligibility for Refugee Cash Assistance is not required to be eligible for Refugee Medical Assistance.

2.712: Early Employment Incentive

Refugees who accept early employment (within four months of entry into the United States) are likely to incur extraordinary work-related expenses as they begin their employment. The Early Employment Incentive is a cash payment designed to offset some of these expenses.

2.713: Child Care Expense Reimbursement

- (1) Subject to available funds and time eligibility for cash assistance, a participant may be reimbursed for child care expenses that are necessary for him or her to participate in pre-employment activities as outlined in the Family Employment Plan as long as the following are all true:

2.713: continued

- (a) There is no other public or private agency available to pay the costs or provide the care at no cost to the participant.
 - (b) No one is deducting the same child care costs from earnings for Refugee Cash Assistance calculations.
 - (c) The care is not provided by a person legally responsible for the child(ren).
 - (d) The care is not provided by a relative who is in the same assistance unit as the child.
 - (e) The provider is registered with or licensed by the Office for Child Care Services or not required to be registered or licensed.
 - (f) The child(ren) being provided care is under 13 years old, or, if older, physically or mentally unable to care for him or herself.
- (2) The costs may not exceed \$2.00 per hour per child nor \$100 per week per child, and the hours may not exceed ten hours per day per child nor 50 hours per week per child.
- (3) The participant shall give the Case Management Agency a monthly statement signed by the provider indicating the care provided per day per child and hourly and weekly cost.

2.714: Transportation Expense Reimbursement

- (1) Subject to available funds and time eligibility for cash assistance, a participant may be reimbursed for transportation expenses incurred in order to participate in pre-employment activities as outlined in the Family Employment Plan as long as the following are all true:
- (a) There is no other person or agency available to pay the costs or provide the transportation at no cost to the participant.
 - (b) The participant is using the least costly mode of transportation.
 - (c) No one is deducting the same transportation costs from earnings for Refugee Cash Assistance calculations.
- (2) Reimbursements for transportation expenses shall not exceed \$150 per month of verified participation and shall be based on the actual cost to the participant, as reasonably incurred, of transportation by:
- (a) public bus or rail; or
 - (b) private automobile, by applying the mileage rate currently allowed State employees.
- (3) Participants shall verify transportation expenses by giving their case managers a monthly statement of costs per day indicating mode of transportation.

2.715: Participation in Employment Services

Unless exempt, each employable refugee shall participate in employment services specified in a Family Employment Plan. The Case Management Agency shall refer participants to Employment Service Agencies. If there is no ORI contracted Employment Service Agency available for a participant, the Case Management Agency may use other employment service providers.

The Employment Service Agency shall provide the Case Management Agency with documentation of participation in activities and of any change(s) in the participant's status. Both the Case Management Agency and the Employment Service Agency are responsible for providing one another with information concerning the participant when such information affects eligibility or status in the MRRP or progress toward early employment or durable self-sufficiency.

2.720: Participation Requirements

- (1) During development of the Family Employment Plan, and after consultation with adult members of the assistance unit, the case manager shall designate one or more adult members of the assistance unit as the primary participant(s).
- (2) Each primary participant shall participate a minimum of 20 hours and up to 30 hours per week in approved employment services.

2.720: continued

- (3) The primary participant(s) must use at least half of the required 20-30 hours of the participation requirement in employment services other than ESL or other literacy training.
- (4) The Family Employment Plan also will include employment plans for secondary participants who may not be immediately employable.
- (5) Only the primary and secondary participants who require ESL to become employed and/or to retain/upgrade employment may access ESL.
- (6) A participant shall not terminate employment nor refuse an appropriate job offer without good cause.

2.725: Exemptions from Participation

- (1) A refugee is exempt from participating, unless he or she chooses to, if:
 - (a) The refugee is younger than 16 years old; or is a student younger than 22 years old, regularly attending full-time a grade school, high school, technical or vocational school, or any other secondary school in grade 12 or below or an equivalent level of vocational or technical training. A student loses his or her eligibility as a student as soon as he or she: receives a high school diploma or its equivalent, stops regularly attending school, or turns 22 years old. Attending school full-time means:
 - 1. 25 instructional hours per week in an elementary school, or equivalent program approved by the school;
 - 2. 25 clock hours in a program without shop practice, or 30 hours with shop practice, in a trade or technical school, or equivalent program approved by the school;
 - 3. 25 clock hours per week or four Carnegie units per year in a secondary school (including special schools for the blind, deaf, or disabled), or equivalent program approved by the school;
 - 4. 30 clock hours per week in a secondary education program of cooperative training or in apprenticeship training, or in an equivalent program approved by the school.
 Regularly attending means attending at least 80% of the days since enrollment. Regular attendance is not interrupted when the student is temporarily absent for reasons accepted by the school or institution, official school or institution vacation, illness or family emergency. The student is considered to be regularly attending through the end of his or her graduation month.
 - (b) The refugee is caring for another member of the family who has a physical or mental impairment which requires, as determined by competent medical authority, care in the home on a substantially continuous basis, and no other appropriate member of the family is available.
 - (c) The refugee is ill or injured seriously enough to temporarily prevent entry into employment services for not less than an expected 120 days, as determined by competent medical authority.
 - (d) The refugee is working 30 hours or more per week in paid employment expected to last a minimum of 30 days. This exemption will continue if there is a temporary break of no longer than ten days in the full-time employment.
 - (e) The refugee is pregnant, and the child is expected to be born within the next four months.
 - (f) The refugee is incapacitated by a physical or mental impairment that either alone or when combined with age prevents the person from engaging in employment or training. The incapacity is expected to last through the end of the refugee's time eligibility.
 - (g) The refugee is a parent or other caretaker relative who personally provides full-time care of a child under the age of three.
 - (h) The refugee is 65 years of age or older.
- (2) Verification of Exemption.
 - (a) Student status shall be verified by:
 - 1. A signed statement from an appropriate school authority, or
 - 2. During summer months, if the statement listed above is unavailable, one of the following:

2.725: continued

- a. a report card from the last semester of the previous school year; or
- b. a course schedule or other notice of attendance for the next school year.

If the documents listed in 121 CMR 2.725(2)(a)1., 2.a. and 2.b. are unavailable, and if the case manager is unable to obtain documentation through collateral contact, student status may be verified by a self-declaration of the student.

- (b) Illness, incapacity, or pregnancy shall be verified by a competent medical authority stating the nature and expected duration of the illness or incapacity, or the anticipated due date of the pregnancy.
- (c) Employment for at least 30 hours per week shall be verified by the wage stubs or by a signed and dated statement from the employer that states the hours per week and the wage paid.
- (d) Care for children under the age of three shall be verified by a self-declaration.

(3) Inability to communicate in English does not exempt a refugee from participation.

2.730: Good Cause for Failure to Cooperate, Failure to Participate in Employment Services or Terminating or Refusing Employment

(1) All nonexempt primary participants must cooperate in the development and implementation of the Family Employment Plan, maintain participation of a minimum of 20-30 hours in Employment Services, and not terminate employment or refuse an appropriate offer of employment that is consistent with the Family Employment Plan without good cause.

(2) Good cause exists in any of these conditions:

- (a) The employer discriminates in terms of age, sex, race, religion, ethnic origin, sexual orientation, or physical or mental disability or has sexually harassed an employee. The participant shall verify discrimination by submitting his or her own dated and signed statement. When appropriate, the Case Management Agency may make third-party contacts for further verification.
- (b) The wage is below the applicable federal or state minimum wage laws. The participant shall verify the employer's failure to pay the minimum wage by submitting his or her own dated and signed statement. When appropriate, the Case Management Agency may make third-party contacts for further verification.
- (c) The task performed regularly adversely affects or exceeds the participant's physical or mental health capacity. A dated and signed statement by a competent medical authority shall verify the physical or mental condition.
- (d) Transportation to and from the place of employment or training cannot reasonably be arranged. The Case Management Agency shall require a dated and signed statement from the participant. If the participant does not have access to private transportation, the case manager should make an independent verification through contact with an appropriate transportation official or by examination of public transportation schedules.
- (e) The work or training site violates established health and safety standards. The participant shall obtain a written statement from the appropriate local, state or federal enforcement agency or board, if available, to verify this condition. If the participant cannot obtain such a statement, the participant may verify the condition with his or her own dated and signed statement, subject to appropriate third-party contact by the case manager.
- (f) The hours of work exceed eight hours per day or 40 hours per week. The participant shall verify the work hours by submitting his or her own dated and signed statement. When appropriate, the Case Management Agency may make third-party contacts for further verification.
- (g) The position offered is vacant due to a strike, lockout or other *bona fide* labor dispute. The Case Management Agency shall require evidence of a strike, lockout or other *bona fide* labor dispute by a written statement from either the labor or management collective bargaining representative. If unable to obtain such a statement, the Case Management Agency shall require a written, dated, and signed statement from the participant, subject to appropriate third-party contact by the case manager.
- (h) The position does not have Workers Compensation Insurance. The participant shall verify the lack of Workers Compensation Insurance by submitting his or her own dated and signed statement. When appropriate, the Case Management Agency may make third-party contacts for further verification.

2.730: continued

- (i) Appropriate childcare is needed and not available. The participant shall verify the need for and lack of appropriate child care by submitting his or her own dated and signed statement. When appropriate, the Case Management Agency may make third-party contacts and personal observations for further verification.
- (j) Acts or omissions of the employer or conditions in the workplace render it unreasonably difficult for the participant to accept or remain on the job. When appropriate, the Case Management Agency may make third-party contacts and personal observations for verification in addition to whatever verification is submitted by the refugee.

2.800: Noncompliance

- (1) Noncompliance. A refugee who is required to participate in Employment Services is in noncompliance if:
 - (a) The refugee fails to meet his or her 20-30 hours of participation per week, as required in the Family Employment Plan, or otherwise fails to cooperate as required by 121 CMR 2.000; or
 - (b) A refugee has terminated employment or refuses an appropriate offer of employment without good cause.
- (2) Noncompliance Corrected. A refugee may reestablish compliance by signing a Conciliation Agreement, and:
 - (a) If the noncompliance is for failure to meet the requirements of the Family Employment Plan, 121 CMR 2.735(1)(a), by meeting the requirements of the Plan or agreeing to a revised Plan and otherwise cooperating.
 - (b) If the noncompliance is for terminating employment or refusing an appropriate offer of employment without good cause, 121 CMR 2.735(1)(b), by returning to or accepting the employment if it is still available; or, if the position is no longer available, by agreeing to accept the next available appropriate offer of employment and/or agreeing to a revised Plan and otherwise cooperating.

2.805: Conciliation

- (1) Finding of Noncompliance. Before a case manager issues a finding of noncompliance, he or she shall consult with the Case Management supervisor. If the supervisor agrees with a finding of noncompliance, the Case Management Agency shall initiate a conciliation period during which every effort shall be made to bring about a resolution of any disputes concerning participation. The conciliation period shall last a maximum of ten working days following the sending of written notice to the participant, as detailed in 121 CMR 2.805(2).
- (2) Notice of Conciliation. The Case Management Agency shall within one working day of the supervisor's concurrence with the finding of noncompliance, send the participant a notice of its finding and of its initiation of the conciliation period, and schedule an appointment for a meeting between the participant and the case manager.
 The written notice shall include an explanation of the reason(s) for the finding of noncompliance, the consequences of failure or refusal to cooperate, a description of the conciliation process, the right to have a representative present, the right to have supervisory staff present, the timelines for action, the consequences of continued noncompliance, and the applicant's or participant's right to appeal an adverse finding.
- (3) Conciliation Meeting. The conciliation meeting shall be informal. The participant shall be given every opportunity to clarify his or her actions or inactions, including the opportunity to establish good cause even if this was previously rejected. The Case Management Agency shall explain the steps necessary to come into compliance and the consequences of failing to and shall address as many of the participant's concerns as possible. Every effort shall be made to resolve the matter at this meeting in a manner that will eliminate the need for further action.
- (4) Successful Conciliation. The conciliation shall be considered successful if:
 - (a) after conciliation, the Case Management Agency, based upon additional or corrected facts received during the conciliation process, withdraws the finding of noncompliance; or

2.805: continued

(b) during conciliation, the participant agrees, by signing the Conciliation Agreement, to cure the noncompliance and agrees to any revisions in the Family Employment Plan that reflect the steps necessary to come into compliance.

2.810: Sanctions

(1) If after the conciliation is completed, the Case Management Agency finds the participant(s) in noncompliance, it shall send a timely notice as follows:

(a) If the noncompliance is for failure to meet the requirements for participation in the Family Employment Plan, in the case of a nonexempt primary participant, the notice shall terminate his or her portion of Refugee Cash Assistance and other services and benefits under the MRRP for a period of at least six months. For a similar noncompliance by a secondary participant, the notice shall terminate employment services for a period of at least six months.

(b) If a nonexempt primary participant is in noncompliance for the first time for terminating employment or refusing an appropriate offer of employment without good cause, the notice shall be a notice to terminate his or her portion of Refugee Cash Assistance and other services and benefits under MRRP for the primary participant for a period of at least six months. For a second noncompliance by the same primary participant for this reason, the notice shall terminate eligibility for the primary participant for Refugee Cash Assistance and other services and benefits under MRRP permanently.

(2) In addition to the other requirements of timely notice, the notice shall also state when and if the participant may reapply for services.

(3) 121 CMR 2.810 does not apply to Refugee Medical Assistance eligibility.

2.815: Written Procedures

Case Management Agencies shall have for distribution to every participant, procedures written in English and in the participant's language which explain participation requirements, good cause, the procedures and sanctions for noncompliance, and outline the appeal process.

REGULATORY AUTHORITY:

121 CMR 2.000: M.G.L. c. 6, §§ 206 and 207; c. 30A; 8 USC 1521, 1522(e)(7); 45 CFR 205.10, 400.23 and 400.83.

(PAGES 63 THROUGH 74 ARE RESERVED FOR FUTURE USE.)